

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

APR 28 2004

JOHN P. SHERIDAN,

Petitioner,

CLERK

v.

No. CIV-04-0157 RB/LCS

SOCORRO COUNTY SHERIFF'S DEPT.,
SOCORRO COUNTY, NEW MEXICO, and
DOES 1 to 200,

Respondents.

MEMORANDUM OPINION AND ORDER

This matter is before the Court, *sua sponte* under Rule 4 Governing Section 2254 Cases, for preliminary consideration of Applicant's application for writ of habeas corpus under 28 U.S.C. § 2254. For the reasons below, the application will be dismissed.

In his application, Applicant alleges that he was subjected to excessive force at the time of his arrest, his trial was unfair, and he was denied effective assistance of counsel at trial. He expressly states that he did not appeal his conviction or seek collateral relief, asserting that, "this is my appeal." Applicant, therefore, has not exhausted his state court remedies, as required by the statute. § 2254(b)(1)(A). Nor can exhaustion be excused on the basis of Applicant's assertion that "federal laws have been violated." *See Coleman v. Thompson*, 501 U.S. 722, 731 (1991) ("States should have the first opportunity to address and correct alleged violations of state prisoner's federal rights."). The application will be dismissed for failure to exhaust state court remedies.

IT IS THEREFORE ORDERED that Applicant's motion for leave to proceed in forma

pauperis (Doc. #2) is GRANTED;

IT IS FURTHER ORDERED that Applicant's application for writ of habeas corpus under 28 U.S.C. § 2254 is DISMISSED; and, pursuant to Fed.R.Civ.P. 58(a)(2)(A)(iii), *United States v. Sam*, No. 02-2307, 2003 WL 21702490, at *1 (10th Cir. July 23, 2003), judgment will enter in accordance with this order.


UNITED STATES DISTRICT JUDGE